

MASS. HRA1.2: R29

* UMASS/AMHERST *



312066 0374 6988 1

REPORT
OF
THE MASSACHUSETTS HORSE RACING AUTHORITY
TO
THE GOVERNOR
THE PRESIDENT OF THE SENATE
THE SPEAKER OF THE HOUSE OF REPRESENTATIVES
AND
THE JOINT COMMITTEE ON GOVERNMENT REGULATIONS

JANUARY 18, 1989

1/15/1989

University of Massachusetts
Depository Copy

THE MASSACHUSETTS HORSE RACING AUTHORITY

January 18, 1989

The Honorable Michael S. Dukakis
Governor
State House, Room 360
Boston, MA 02133

The Honorable William M. Bulger
President of the Senate
State House, Room 330
Boston, MA 02133

The Honorable George Keverian
Speaker of the House of Representatives
State House, Room 358
Boston, MA 02133

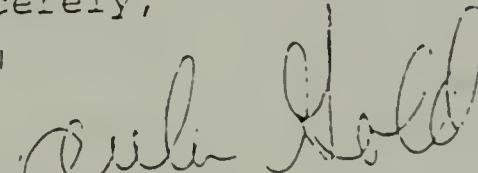
The Honorable Thomas C. Norton
Senate Chairman
Joint Committee on Government Regulations
State House, Room 407
Boston, MA 02133

The Honorable William F. Galvin
House Chairman
Joint Committee on Government Regulations
State House, Room 472
Boston, MA 02133

Dear Gentlemen:

On behalf of the Massachusetts Horse Racing Authority, I am pleased to submit to you the Authority's report pursuant to G.L. c. 128A, s. 22.

Sincerely,


Paula W. Gold
Chairman

THE MASSACHUSETTS HORSE RACING AUTHORITY

Paula W. Gold, Chairman
Secretary of Consumer Affairs and Regulation

Charles Barry
Secretary of Public Safety

Grady Hedgespeth
Secretary of Economic Affairs

Robert Crane
Treasurer and Receiver-General

Peter Muse, Esq.

I. INTRODUCTION

The Massachusetts Horse Racing Authority was created by section five of Chapter 680 of the Acts of 1987. It is composed of five members: Secretary of Consumer Affairs and Business Regulation Paula Gold (appointed by the Advisory Board to the Authority), Secretary of Public Safety Charles Barry (appointed by Governor Dukakis), Secretary of Economic Affairs Grady Hedgespeth (appointed by Governor Dukakis), Treasurer Robert Crane (appointed by himself) and Peter Muse (appointed by Auditor DeNucci).

The Authority is a public instrumentality with the power to acquire and manage racetrack facilities in the commonwealth. However, the Authority has never been funded.

Chapter 680 requires the Authority to submit to the governor, the president of the senate, the speaker of the house of representatives, and the joint legislative committee on government regulations a report concerning "the project of purchasing, developing and operating one or more thoroughbred or harness horse racetracks in the commonwealth."

The legislation requires that the report contain the following: 1) a description of the land and facilities known as Suffolk Downs Racetrack and Foxboro Raceway; 2) the decision of the Authority regarding whether to purchase Suffolk Downs, Foxboro Raceway, or any other facility for the purpose of horse racing; and 3) projected revenues and a proposed budget for the Authority.

This report is submitted in fulfillment of the requirements of Chapter 680.

II. SUFFOLK DOWNS RACETRACK

Existing Facilities: The racing facility known as Suffolk Downs Racetrack covers approximately 190 acres. It consists of a one mile running horse race track, a grandstand with a capacity of 9,568 and a clubhouse with a capacity of 1,712. It has 210 pari-mutuel ticket windows and parking for 10,700 cars. The facility has 34 stables with 1,338 stalls.

The facility is owned by Belle Isle Limited Partnership which purchased it for \$22 million in 1986. It is leased to New Suffolk Downs Corporation for \$1,500,000 per year. The lease is for a three-year term running from June 25, 1986 to June 25, 1989, with an option for a two year extension.

Additional information from the records of the State Racing Commission regarding the land and facilities is set forth in Exhibit A.

Needed Renovations: Suffolk Downs requires major renovations. The fifty-four year old grandstand was built on filled land and suffers from structural problems caused by settling. It also has heating, ventilation and air conditioning problems, and a leaky roof. The stable area requires major improvements including the replacement of over half of the stalls. The racetrack surface also needs repair.

State Racing Commission Chairman Gerald Venezia estimates that the necessary improvements would total \$10-\$12 million. These improvements would be in addition to the \$4 million of improvements made by the current licensee as required by the 1982-1989 license.

III. FOXBORO RACEWAY

Existing Facilities: The racing facility known as Foxboro Raceway covers approximately 215 acres. It consists of a five-eighths mile harness horse racetrack, a grandstand with a capacity of 2,500, a club house with a capacity of 600, and a "Hall of Fame" building with a capacity of 1,000. There is capacity for an additional 1,000 people at tables and benches in front of the grandstand and club house. The facility has 91 pari-mutuel ticket windows and parking for 13,800 cars. It has 24 stables with 890 stalls. The facility has been closed since December 1986

Foxboro Raceway is owned by Foxboro Associates. Robert Kraft and Steven Karp have an option to purchase the raceway at any time prior to December 31, 1989.

Additional information from the records of the State Racing Commission regarding the land and facilities is set forth in Exhibit B.

Needed Renovations: Like Suffolk Downs, Foxboro Raceway requires major renovations. The public areas have leaky roofs and broken pipes. They also have heating, ventilation, sewerage, drainage, and electrical problems. The parking lots need major repairs. The stable area requires major improvements and the paddock must be replaced. The racetrack surface and the totalizer board also need repair.

Chairman Venezia estimates that the necessary improvements would total approximately \$8 million.

IV. THE DECISION OF THE AUTHORITY

The Authority has decided unanimously not to purchase or take Suffolk Downs Racetrack, Foxboro Raceway or any other land or facility for the purpose of horse racing.

The Authority reached this decision for three reasons: First, given the existing budget situation, this is not the time for the commonwealth to spend millions on a racetrack. Second, changing from private ownership to public ownership will not solve horse racing's underlying economic problems. Massachusetts horse racing is failing because it has a very limited market, faces extreme competition, and is conducted in dilapidated facilities. It is not failing because it is not owned by a state authority. Third, the Authority believes that horse racing should be owned and managed by the private sector.

The current budget shortfall makes this a particularly inappropriate year for the commonwealth to purchase a racetrack. It is true that many believe that Massachusetts horse racing has the potential to be a profitable business and that it would thus supplement, rather than drain, the budget. The Authority certainly hopes that racing will once again become profitable. However, that will not happen overnight. The huge start-up costs of purchasing and renovating the tracks would ensure that the Authority would run at a loss for years.

Unfortunately, all Authority losses would be borne by the taxpayers. Although the Authority has the ability to issue bonds, those bonds would not be backed by the full faith and credit of the commonwealth. Hence, as a practical matter, the Authority would have to be funded 100% by the taxpayers.

Also, taking Suffolk Downs would deprive the commonwealth of an existing revenue source. In calendar 1988, Suffolk Downs paid the commonwealth \$2,357,929.08. Hence, if the Authority were to purchase the track, it would change racing from a net gain for the commonwealth to a net loss.

Second, state ownership of a race track would do nothing to solve racing's underlying economic problems. In its October 1988 report, the Advisory Task Force on the Future of Horse Racing ("Task Force")¹ identified two primary reasons for racing's decline: extreme competition and a limited market. (A copy of the Task Force report is attached as Exhibit C.) Neither of these problems would be solved by state ownership.

Competition: As the Task Force pointed out, "Suffolk Downs and Foxboro Raceway may be in the most competitive market in the country for entertainment, gambling and pari-mutuel dollars." Suffolk Downs competes head-to-head, all year round with Rockingham Park, a thoroughbred racetrack in Salem, New Hampshire. No other horse racing market has direct, year-round competition between two thoroughbred tracks. Also, both Suffolk Downs and Foxboro Raceway compete with Raynham Park and Wonderland Park, two of the most successful dog tracks in the nation. Only one other major racing jurisdiction has direct competition between horse racing and dog racing.

¹ The Task Force was appointed in March 1988 by Secretary of Consumer Affairs and Business Regulation Paula W. Gold. It was charged to investigate and study the future of the horseracing industry in the commonwealth.

Massachusetts horse racing must also compete with the Massachusetts lottery, which has the highest daily per capita wager of any lottery in the country, and with the Celtics, the Red Sox, the Patriots, and the Bruins, four highly successful professional sports teams.

Limited Market: The Task Force also identified severe restrictions on the Massachusetts horse racing market. First, physical access has become very limited. Highway construction and dense traffic on the Mystic River Bridge and in the Callahan Tunnel make it very difficult to reach Suffolk Downs.

Also, the Massachusetts racing market is limited to patrons who are willing and able to travel to the track. By contrast, tracks in other states simulcast their races to off-track wagering facilities elsewhere in the state. Simulcasting of this kind clearly expands a track's market. It would go far towards making Massachusetts racing economically viable.

Tracks in other states are also able to expand their markets by simulcasting races from one track to another. Massachusetts permits this form of simulcasting, but only for one race per day. Expanding this form of simulcasting would certainly attract additional patrons to Massachusetts racetracks.

Massachusetts racing also suffers greatly from the deplorable condition of the tracks themselves. A short tour of Suffolk Downs demonstrates why many Massachusetts racing fans are choosing Rockingham Park in New Hampshire.

Finally, the Authority believes that the private sector should own and operate horse racing. Private sector ownership is the rule in the industry; only two states employ anything else. Private ownership is also the rule in Massachusetts. Horse racing

at Suffolk Downs has been privately owned and managed for 54 years. Massachusetts dog racing, which is very successful, is also privately owned and operated.

Authority ownership has many disadvantages. As the Inspector General stated in his testimony before the Task Force, "[t]o put it bluntly, any new authority will tend to be ... more expensive than any other approach to solving a problem." (A copy of that testimony is attached as Exhibit D; emphasis added) An Authority requires its own administrative bureaucracy which duplicates existing state resources. It is also largely unaccountable, with public funding but little public oversight.

If horse racing in Massachusetts is economically viable -- if it can support itself -- the private sector should and will continue to run it. Fortunately, the private sector remains very interested in Massachusetts horse racing. Indeed, two prominent racetrack operators from other states told the Task Force that they might be interested in owning and operating a track in the commonwealth if the market were expanded.

If Massachusetts horse racing is not economically viable -- if it cannot support itself -- the Authority should not take it over. The Inspector General stated in his testimony before the Task Force that no authority should be established that cannot support itself without the need for taxpayer bailouts. (See Exhibit D) The Authority agrees. The taxpayers of the commonwealth should not subsidize horse racing.

For the reasons stated above, four members of the Authority (Paula Gold, Charles Barry, Grady Hedgesbath, and Robert Crane) voted that the Authority should not purchase or take Suffolk Downs

Racetrack, Foxboro Raceway or any other land or facility for the purpose of horse racing. Those members of the Authority believe that the legislation that created the Authority should be repealed.

The fifth member of the Authority, Peter Muse, has taken the position that the Authority should not purchase or take Suffolk Downs Racetrack, Foxboro Raceway or any other land or facility for the purpose of horse racing at this time. He does not join with the others in believing that the legislation that created the Authority should be repealed.

v. PROPOSED BUDGET AND PROJECTED REVENUES

Chapter 680 requires the Authority to propose a budget and to project the revenues that it would realize from operating a racetrack. Because of the decision set forth above, the Authority proposes that it be given no budget and projects that it will generate no revenues.

NEW SUFFOLK DOWNS CORPORATION

September 19, 1987

IN ANSWER TO QUESTION NO. 22 (e)

The exact description by metes and bounds of the principal premises is as follows (Parcel I):

A parcel of land, in part in Boston and in part in Revere, Suffolk County, Massachusetts, bounded and described as follows:

NORTHEASTERLY: by Winthrop Avenue, one thousand six hundred sixty-three (1,663) feet;

SOUTHEASTERLY: by the northwesterly side line of Washburn Avenue by five lines of two thousand four hundred nineteen and 73/100 (2,419.73) feet; five hundred sixty-six and 93/100 (566.93) feet; thirty-three and 05/100 (33.05) feet; eleven and 95/100 (11.95) feet; and seventy-eight and 68/100 (78.68) feet, respectively;

SOUTHERLY: by Waldemar Avenue, one hundred nine and 37/100 (109.37) feet;

WESTERLY: by land of owners unknown, one hundred (100) feet;

SOUTHWESTERLY: by a line distant one hundred (100) feet northeasterly from the northeasterly side line of Waldemar Avenue and being in part the rear line of a portion of Block H on a plan by H. T. Whitman, dated January 1895, recorded with Suffolk Deeds at the end of Book 2478 and in part by the rear line of a portion of Block H as shown on a plan by H. T. Whitman, dated 1894 and recorded with Suffolk Deeds at the end of Book 2204, by two lines measuring seventy-eight and 36/100 (78.36) feet, and one thousand two hundred and 66/100 (1,200.66) feet, respectively;

SOUTHEASTERLY: by land now or formerly of Boston Park Development Company one hundred (100) feet;

Answer to Q22 is continued:

SOUTHERLY: by Waldemar Avenue by eight (8) lines of one hundred fifty and 68/100 (150.68) feet; three hundred seventy-two (372) feet; three hundred forty (340) feet; one hundred sixty and 22/100 (160.22) feet; fifteen and 24/100 (15.24) feet; six hundred sixty-three and 78/100 (663.78) feet; two hundred ten and 97/100 (210.97) feet; and one hundred twenty (120) feet, respectively;

NORTHWESTERLY: one hundred (100) feet;

SOUTHERLY: forty-one and 23/100 (41.23) feet;

SOUTHEASTERLY: ninety (90) feet by a private way forty (40) feet wide, sometimes known as Benevento Street;

SOUTHERLY: by Waldemar Avenue, two hundred twenty-five (225) feet;

WESTERLY: ninety (90) feet;

OTHERLY: by two lines of forty-five (45) feet and sixty-four and 90/100 (64.90) feet, respectively by land now or formerly of Franklin Scatatore.

NORTHWESTERLY: by the southeasterly line of Lee-Burbank State Highway, six hundred seventy-three and 23/100 (673.23) feet;

NORTHEASTERLY: by land now or formerly of Belle Isle Reclamation District about one hundred three (103) feet;

NORTHWESTERLY: by a line distant one hundred (100) feet southeasterly from the southeasterly line of said Lee-Burbank State Highway, thirty-five (35) feet;

NORTHEASTERLY: by land now or formerly of Tidewater Oil Company by three lines measuring one hundred forty-three and 25/100 (143.25) feet; six hundred fifteen and 50/100 (615.50) feet; and three hundred four and 57/100 (304.57) feet, respectively;

NORTHERLY: by land now or formerly of Tidewater Oil Company by a curved line having a radius of one hundred twenty (120) feet, and one hundred fifty-five and 55/100 (155.55) feet;

Exhibit No. 7 (Continued)

Answer to 22(e) continued:

NORTHWESTERLY: by land now or formerly of Tidewater Oil Company and now or formerly of Hartol Terminal Corp., by three lines measuring three hundred eleven and 21/100 (311.21) feet; four hundred seventy-three and 63/100 (473.63) feet; and one hundred seventy-one and 50/100 (171.50) feet, respectively;

SOUTHWESTERLY: by land now or formerly of Hartol Terminal Corp., fifty (50) feet;

NORTHWESTERLY: by land now or formerly of Atlantic Refining Company and by land now or formerly of Union Oil Company of Boston, by four lines measuring two hundred ninety-three and 01/100 (293.01) feet; two hundred eighty-eight and 09/100 (288.09) feet; four hundred twenty-five and 79/100 (425.79) feet; and one hundred ten and 01/100 (110.01) feet, respectively;

SOUTHWESTERLY: by land now or formerly of Union Oil Company of Boston, five hundred twelve and 90/100 (512.90) feet;

NORTHWESTERLY: by land now or formerly of Sun Oil Company, four hundred sixty-four and 96/100 (464.96) feet;

SOUTHWESTERLY: by land now or formerly of Sun Oil Company, one hundred eight and 10/100 (108.10) feet;

SOUTHWESTERLY: by land now or formerly of M. Thomas Green, Trustee, by several lines measuring together eight hundred seventy-seven and 68/100 (877.68) feet;

NORTHWESTERLY: by Lee-Burbank Highway, one hundred fourteen and 75/100 (114.75) feet;

NORTHEASTERLY: by land now or formerly of Revere Ice & Fuel Co., eight hundred sixty-four and 75/100 (864.75) feet; and ,

NORTHWESTERLY AND NORTHERLY: by the thread of Sales Creek about one thousand three hundred fourteen and 62/100 (1,314.62) feet.

Exhibit No. 7 (continued)Answer to 22 (e) continued:

Parcel I is shown on a plan entitled "Land of Eastern Racing Association, Inc., Boston and Revere, Mass., " prepared by Whitman & Howard, C.E., dated November 10, 1953 and brought up to date December, 1962.

Number of acres in Parcel I: 190.27 acres more or less.

The following described additional parcel of land: (Parcel II which is contiguous to Parcel I)

A certain parcel of land in that part of Boston known as East Boston, Suffolk County, Massachusetts, shown as the southerly end of Benevento Street, shown on Plan No. 2 of Section B Orient Heights, Boston, belonging to Boston Land Company*, dated 1894, by H.T. Whitman, Surveyor, recorded with Suffolk Deeds at the end of Book 2204, bounded and described as follows:

SOUTHERLY: by Waldemar Avenue, forty (40) feet;

WESTERLY: by Lots 18 and 19, Block I, one hundred (100) feet;

NORTHERLY: by land now or formerly of Eastern Racing Association forty (40) feet; and

EASTERLY: by Lot 1, Block H, one hundred (100) feet.

Number of acres in Parcel II: 0.1 acres, more or less.

The plans showing the boundaries of both Parcels I and II and all buildings presently on the premises as a whole which are presently on file at the State Racing Commission office are unchanged. Copies of these plans will be furnished upon request.

Information Showing Accessibility by Highway, Railroad and/or other Means of Public Transportation, Population within a 50-Mile Radius and Distances from Principal Cities within said 50-Mile Radius:

Suffolk Downs is accessible from the "Suffolk Downs" station of the Massachusetts Bay Transit Authority located beyond the three-quarter mile chute of the track. The M.B.T.A. service to Suffolk Downs is available from all other stations of the M.B.T.A.

Exhibit No. 7 - continuedAnswer to CC (e) continued:

Suffolk Downs is contiguous to two well-traveled highways--the Revere Beach Parkway to the north and the McClellan Highway (Route 1A) to the west. The track is accessible from downtown Boston via either the Callahan Tunnel or the Tobin Bridge. It is also accessible from other points via the Southeast Expressway, Central Artery, Northeast Expressway, Starrow Drive. From Lynn and the North Shore, Suffolk Downs is accessible via Routes 1 and 1A; from Portland, Maine, via Route 1; from Lawrence, Mass., and Manchester, New Hampshire, via Route 93; from Nashua, New Hampshire and Lowell, Mass., via Route 3; from Fitchburg and Concord, via Route 2; from Marlboro, via Route 20, from Springfield and Worcester; via the Massachusetts Turnpike and/or Route 9; from Providence, via Route 1; from Taunton and Fall River, via Route 24 and from Quincy and Plymouth, via Route 3.

Plane service to Logan International Airport is provided from the United States and elsewhere in the world by various U.S. and foreign carriers.

Public transportation to Suffolk Downs is available by special busses from Pawtucket, R.I.; Worcester, Springfield, Lynn; and taxicabs from Boston, East Boston, Logan International Airport, Chelsea, Revere, Winthrop and Lynn.

The Total Population of all Cities and Towns within a 50-Mile Radius of Suffolk Downs is over 4,000,000, of which over 400,000 persons are residents of Rhode Island, and over 200,000 persons are residents of New Hampshire.

Distances to Principal Cities Within a 50-Mile Radius of Suffolk Downs:

Chelsea	3 Miles	Belmont	12 Miles	Attleboro	37 Miles
Everett	6	Cambridge	9	Newburyport	16
Somerville	10	Salem	16	Worcester	42
Brookline	10	Beverly	16	Fitchburg	49
Lynn	5	Brockton	23	Leominster	41
Quincy	12	Peabody	21	Fall River	60
Waltham	12	Marlboro	27	Woonsocket, R.I.	37
Medford	3	Lawrence	29	Providence, R.I.	47
Malden	7	Lowell	26	Cranston, R.I.	43
Newton	14	Glocester	10	Bristol, R.I.	50
Arlington	12	Haverhill	21	Nashua, N.H.	36
Melrose	10	Taunton	16	Portsmouth, N.H.	40

EXHIBIT 8

NEW SUFFOLK DOWNS CORPORATION

September 29, 1987

In answer to Question No. 24(h):

See attached Lease Agreement.

NEW SUFFOLK DOWNS CORPORATION

September 29, 1987

In Answer to Question No. 29(a)thru(k), (r)(1)thru(g), (r)(11)thru(14),
(n)thru(p):

(a) Total number of acres in owner's premises: 190.27.

(b) Total number of acres used for track, buildings, stables, kennels, parking area, etc.: It is the intent of the lease between Belle Isle Limited Partnership and New Suffolk Downs Corporation that New Suffolk Downs shall have as the leased premises all necessary buildings and building improvements to properly conduct a running horse racing meeting as currently licensed.

(c) Grandstand:

(1) Seating Capacity:

Box Seats - 768
Bench Seats - 1200
General Admission - 7600
Total Seating Capacity - 9568

(2) Is grandstand enclosed?

Yes.

(3) Is grandstand heated?

Yes.

(4) Is any portion of grandstand air-conditioned?

Cafeteria and 2nd floor (mezzanine).

(5) Type of construction of grandstand?

Reinforced concrete and steel. First-class construction.

(6) Ground area covered by grandstand.

Grandstand and Clubhouse - 150,000 square feet.

(d) Clubhouse:

(1) Seating capacity:

Lower seats - 270
Reserved seats - 460
General admission - 1436
Total seating capacity - 1716

(2) Is Clubhouse enclosed?

Yes.

(3) Is Clubhouse heated?

Yes.

(4) Is any portion of Clubhouse air-conditioned?

Second Floor Futility Room and Third Floor.

(5) Type of construction of Clubhouse?

Steel and concrete.

(6) Ground area covered by Clubhouse:

Clubhouse and grandstand - 159,000 square feet.

(e) Bleachers:

None.

(f) Parking space:

(1) Area -

3,004,000 square feet.

(2) Automobile capacity -

Approximately 10,700.

(g) Is parking area lighted?

Yes.

(h) Is parking area treated - and if so, how?

The principal areas are not treated.

(2) Is parking area numbered?

No.

(3) Is parking area marked out?

Yes.

(7) Is charge made for parking, if so how much?

\$2.00 for Preferred Area.

(g) Number of pari-mutuel ticket windows provided:

Grandstand: Terminal windows - 120

Clubhouse: Terminal windows - 90

(h) Toilet facilities for patrons of each sex in grandstand, Clubhouse and/or other locations:

Grandstand - 4 men, 4 ladies.

Clubhouse - 3 men, 3 ladies.

(i) Are all buildings properly maintained-i.e., painting, repair, etc.?

Yes.

(j) System of sewerage disposal.

If not connected to a main sewerage system, give details of system used:

Connected to the city main sewers.

(k) Number of outlets for fresh, pure drinking water for patrons in grandstand, Clubhouse and/or other locations:

Grandstand

1 First Floor

1 Second Floor

Clubhouse

1 Second Floor

1 First Floor

(m) Size of track - mile running distance:

(2) Number of chutes - two chutes 3 1/4 chute 1 1/4 chute - running horse.

(3) Number of stables - 34

(4) Number of stalls - 1,336

(5) Number of tackrooms - 200

(6) Number of tackrooms heated - all heated (in barns).

(7) Number of showerbaths in stable area:

Building A - 6

Building B - 2

Building C - 2

Drivers

Lounge - 4

Ladies

Building - 5

17

(8) Toilet facilities in stable area:

<u>Location</u>	<u>Water Closets</u>	<u>Basins</u>	<u>Urinals</u>
Building A	6	4	0
Building B	7	4	3
Building C	6	4	0
Racing Dept. Bldg. - men	1	1	1
Racing Dept. Bldg. - ladies	1	1	0
Drivers Lounge - men	2	2	0
Drivers Lounge - ladies	2	2	0
Ladies Building	2	2	0
Track Kitchen	<u>2</u>	<u>2</u>	<u>1</u>
Totals	31	22	11

(9) Fire protection in stable area:

Number of sprinklers - 5

Number of fire alarm boxes - 5

Number of hydrants - 5

Water pressure is 15-20 pounds.

Firemen on 24-hour basis.

One fireman patrolling and/or one fireman on a watchtower with direct phone to the Fire Department.

One outlet with 200 feet of 1 1/2" fire hose between every barn.

Two water taps at each barn.

Two fire breaks in each barn segregating them into thirds.

Barns constructed 50 feet apart for fire safety.

"Smoke Sentinel" in each barn.

Smoke turns on red roof light and alarm.

Fire protection is subject to change as conditions are regularly reviewed.

(1) Recreation Room: New enlarged room in track kitchen.

(12) Track Kitchen:

Seating capacity - 225.

(13) Jockey Room:

Male:

Working in locker rooms - 72 feet x 62 feet.

Recreation room - 60 feet x 30 feet. (Air conditioned).

Toilet and shower room - 17 1/2 feet x 14 feet.

Reducing room - 12 feet x 12 feet.

Cooling out room - 12 feet x 6 feet.

Rubbing room - 14 feet x 24 feet.

Bath room - 30 feet x 27 1/2 feet. (Air conditioned)

Projection room - 16 feet x 16 1/2 feet. (Air conditioned)

Process room - 20 feet x 10 feet.

Salt room - 12 feet x 6 feet.

Color room - 16 feet x 24 feet.

One clothes drier.

One washing machine.

One double sink.

Six showers.

Four urinals.

Six toilets.

One whirlpool bath.

One refrigerator.

One sink.

One stove.

Two drinking fountains.

Two scales.

Three double bunk beds.

Four single beds.

One pool table.

One television set.

One pingpong table.

One icemaking machine.

Female:

Enclosed room - 12 feet x 16 feet (Air conditioned)

Sleeping room - 6 feet x 16 feet (Air conditioned)

Sanitary facilities

one sink

two toilets

two showers

four bunkbeds

One television.

One storage cupboard.

One portable water cooler.

Air conditioned.

Miscellaneous furniture.

(14) Other accommodations, facilities or services in stable area:

One 20 x 20 blacksmith's shop.

Three loading platforms.

160 outside feed rooms.

30 portable sleeping units (three rooms to each).

One harness shop.

One saliva barn.

Seven urine stalls for State Racing Commission.

Four icemaking machines with 1000 lbs. production in 24 hours.

26 hot water heaters - 35 gals. per hour recovery cap. each.

Eight hot water heaters - 200 gals. per hour recovery cap. each.

(o) Are all grounds in good order and properly maintained?

Yes.

(p) List any accommodations, facilities or services for the benefit of the patrons attending:

Grandstand

First floor restaurant.

Terrace lounge.

First and second floor bars.

Customer Service Booth.

Concession stands on first and second floors.

Barber shop on first floor.

Commission Office on first floor.

Restrooms.

First floor First Aid Room, Lost and Found and Security Office.

Clubhouse

First floor snack bar and bar.

Second floor Dining Room, lounge, bar.

Third floor Dining Room, lounge and bar; Turf Club.

Restrooms.

Reserved seating - large screen television, 1st and 2nd floors.

NOTE: Material contained in Exhibit 10 is subject to change over the next few years as our capital improvement program progresses. New Suffolk Downs Corporation will notify the Racing Commission as changes take place.

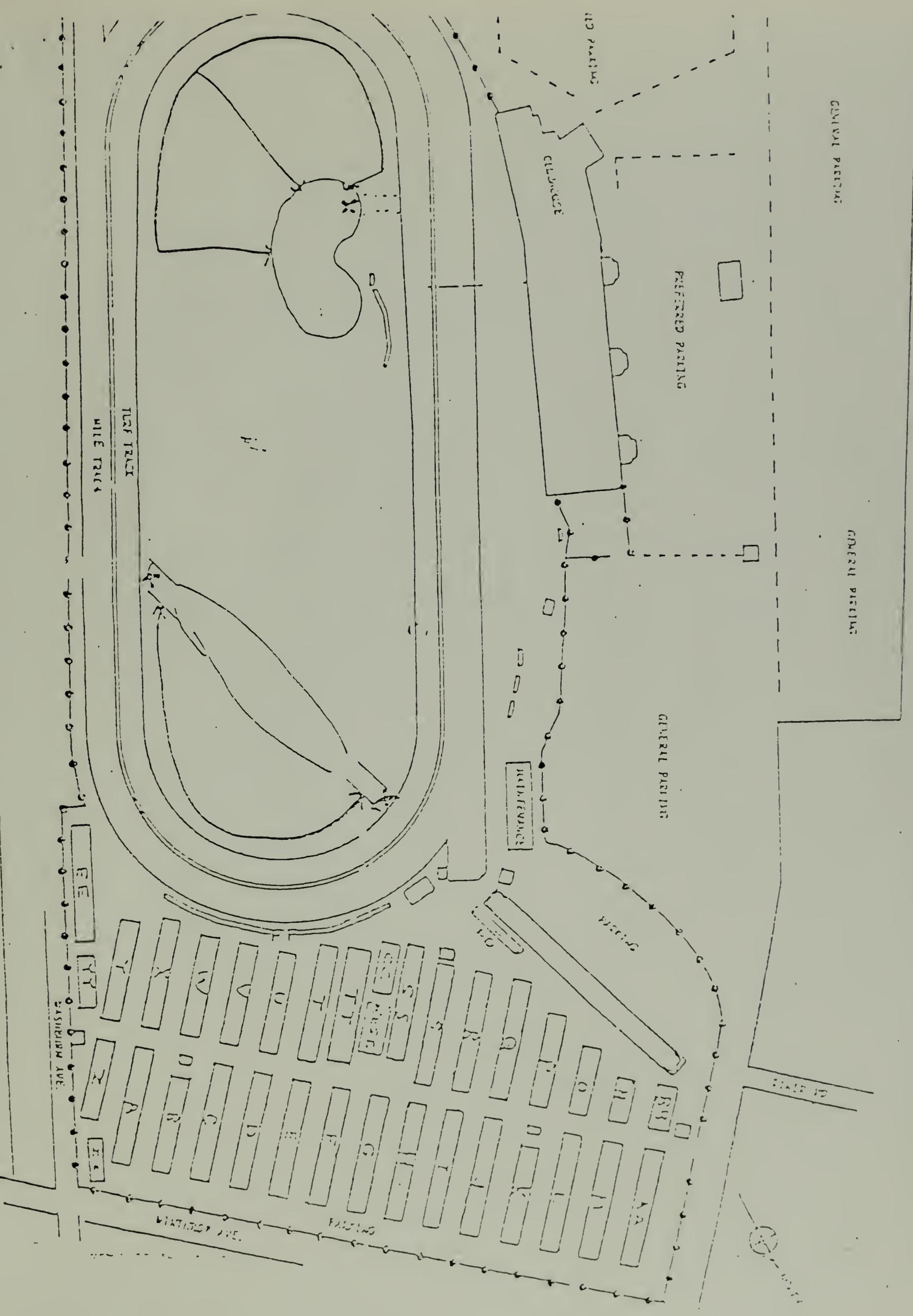


Exhibit No. 5 to Application of
Commonwealth Sports Properties, Inc.

Question No. 22(e): Legal Description of Premises

1. The Metes and Bounds description is contained in Schedule A to Raceway Facilities Sublease and Purchase Option dated as of March 14, 1984, on file with the Commission.
2. There are approximately 215 acres comprising the premises. A plot plan showing the premises is on file.
3. The Applicant's premises are accessible by highway and bus service is available.
4. The total population within a 50 mile radius of the Applicant's premises in Foxborough is estimated to be 5,113,000.
5. The approximate distance from Applicant's premises in Foxborough to principal cities within 50 miles therefrom is as follows:

Boston and vicinity	25 miles
Worcester	32 miles
Brockton	12 miles
Fall River	25 miles
Providence, R.I.	19 miles
Lowell	40 miles
Lawrence	45 miles
New Bedford	33 miles

Exhibit No. 7 to Application

of Commonwealth Sports Properties, Inc.

Question No. 24(h): Lease of Premises etc.

1. See Raceway Facilities Sublease and Purchase Option dated as of March 14, 1984 by and among the Applicant, Foxboro Associates, and New England Harness Raceway, Inc., a copy of which is on file with the Racing Commission.

Exhibit No. 6 to Application of
Commonwealth Sports Properties, Inc.

Section No. 29: Description of Premises And Building

- (a) The total number of acres in the Applicant's premises is approximately 215 acres.
- (b) The total number of acres used for track building, stables, parking areas, etc. is approximately 215 acres.
- (c) The Grandstand has a seating capacity of approximately 2,500 of which 450 are box seats and 606 are reserved seats. Additionally there are picnic tables and benches to accommodate 1,000 people located in front of the Club House and Grandstand. The Grandstand is enclosed and heated throughout and it is constructed of steel, concrete and glass and covers a ground area of approximately 60,000 square feet.
- (d) The Club House has a total seating capacity of 600 for dining and table service. The Club House is enclosed, heated and air conditioned throughout; it is a steel, glass and concrete structure and covers an area of approximately 40,000 square feet. In addition, a building located between the Club House and the Grandstand known as the "Hall of Fame Building" is comprised of three levels and seats approximately 1,000 people. The first level is designed for show cases with exhibits. Dining areas are located on the second and third floors with pari-mutuel windows also located on the second and third levels. These floors are heated and air conditioned and contain kitchens or other cooking facilities. There are no box seats, reserved seats or general admission seats located in the Hall of Fame Building. The building is constructed of steel, concrete and glass and occupies approximately 7,800 square feet of space.
- (e) There are no bleachers.
- (f) The parking facilities cover an area of approximately 100 acres with a capacity for approximately 13,800 cars; parking is lighted throughout most of its area. The area is asphalt in part and the rest is oiled and gravelled. Most of the area has marked parking spaces. A charge of \$1.00 is made for general parking and an additional charge of \$2.00 is made for valet parking.

- (o) In the Grandstand there are 30 selling and cashing pari-mutuel ticket windows. In the Club House there are 20 selling and cashing windows. The Hall of Fame has 15 windows. The facilities are electrically wired for additional windows.
- (n) There are 2 toilet rooms for each sex in the Grandstand. There are 3 toilet rooms for each sex in the Clubhouse. There are 2 toilet rooms for men and one for women in the paddock. There are 5 toilet rooms for men and 4 toilet rooms for women in the stable area. There are 2 toilet rooms for each sex in the Hall of Fame building.
- (i) All buildings are in good condition and are properly maintained.
- (j) The sewage from that portion of the premises utilized by the general public is pumped to the sewage treatment plant which also services Sullivan Stadium. The sewage is treated at this plant through the tertiary stage and is then leached into the ground. Sewage from the Horsemen's Kitchen and grooms' quarters is treated in separate sewage filter beds. Other toilets on the premises are also connected directly to the sewage treatment plant.
- (k) There are 4 drinking water fountains in the Grandstand area, two in the Club House and numerous outlets in the stable, paddock and mutuel areas.
- (l) Security and traffic control: See Exhibit No. 8.
- (m) The harness horse running track is a 5/8 mile track; there are 24 stables, 890 stalls. There are 6 shower baths in the stable area; there are 5 toilet rooms for men and 4 for women in the stable area. The fire protection measures in the stable area consist of fire extinguishers on the end of each barn and 8 hydrants. Smoke detector devices have been installed in the grooms' quarters and in all barns.

See Exhibit No. 10 for policing of stable areas.

There is a drivers' lounge. The track kitchen has a seating capacity of 1000. The drivers' room is approximately 600 square feet, equipped with a toilet room, shower, water cooler, telephones and dressing room. The stable area has hot water available at all times, and quarters for grooms with 81 rooms. There is a down water system in the stable area for fire protection on the engine facility.

There is a snack bar in the paddock area for the convenience of the track personnel. In addition, the drivers' lounge has been refurbished for the drivers' comfort and convenience.

- (n) Not applicable.
- (o) All grounds are in good order and are properly maintained.
- (p) Other accommodations include food and beverage service to all patrons; ushers and attendants are available for assistance of all patrons. A registered nurse is in attendance at all times when the Raceway is open for racing programs. A fully equipped ambulance is also available at all such times. Tire changing service and mechanical assistance is provided to distressed patrons in the parking area. Vehicles operated by policemen patrol the parking area giving aid and protection to patrons and their property.

$$B = \frac{1}{2} \left(\frac{1}{10} \right)^{-1}$$

Commission held two public hearings in September and a decision regarding whether the track should be fined is forthcoming.

Edward Leroux has stated that after 1989 he will no longer operate Suffolk Downs as a racetrack and that he plans to develop the property for other purposes. This position has been consistently opposed by state agencies which oppose any large-scale development at Suffolk Downs while the Harbor Tunnel, Central Artery, and Harbor Cleanup projects are under construction.

Suffolk Downs has been experiencing a decline in attendance and handle. In 1987, the track had its lowest handle in five years. 1988 has been even worse. From January 1, 1987 to June 30, 1987, the average daily handle was \$897,715. For the same period in 1988, the average handle was \$816,492, a decline of over \$80,000 per day or nearly 9%. In June of this year, the average handle was \$116,000 lower per day than it had been in 1987.

Moreover, Suffolk Downs has been struggling with insufficient numbers of horses to fill its racing cards and with horses of poor quality. As the 1978 and 1985 reports pointed out, a low handle produces low purses, and low purses do not attract quality horses. As those reports also pointed out, the poor fields cause the attendance and handle to drop even further. This, in turn, makes the purses even smaller which makes the fields even poorer. This cycle, identified in both 1978 and 1985, has not been broken.

Many in the racing industry believe that poor track management has contributed to the problems at both Suffolk Downs and Foxboro. The failure of Suffolk Downs to complete the necessary

renovations has undoubtedly contributed to the decline in attendance and handle. The repeated announcements of the track's imminent closing have undoubtedly aggravated the problem of poor fields. Stables that once raced at Suffolk have sought more permanent circumstances elsewhere. Indeed, some horsemen do not believe that Suffolk Downs will remain open even through 1989, let alone be open beyond that date.

IV. THE ECONOMIC IMPACT OF HORSE RACING

State Racing Commission records indicate that Suffolk Downs employs over 600 people full time and that another 1,000 people work full time in the thoroughbred racing industry. Suffolk Downs purchases approximately \$23 million of goods and services annually from the local marketplace.

In calendar 1987, Suffolk Downs paid to the Commonwealth \$6,836,891.97 in commissions, license fees, assessments, and uncashed tickets. It is projected that Suffolk Downs will pay approximately \$2,750,000 to the Commonwealth in 1988.

Foxboro Raceway, prior to its closing in December of 1986, employed approximately 500 people and provided income to approximately 500 others who participated in pari-mutuel harness racing there, according to State Racing Commission records. During their last year of racing at Foxboro Raceway, Commonwealth Sports Properties paid to the Commonwealth approximately \$2 million in commissions, license fees, assessments and uncashed tickets.

The horse racing industry pays millions of additional tax dollars to the Commonwealth in corporate, income, sales, and meals taxes, and to cities and towns in real estate taxes. Suffolk Downs paid approximately \$600,000 in real estate taxes to the cities of Revere and Boston in 1987.

V. HORSE BREEDING

Over 20,000 acres of Massachusetts open space are used, directly or indirectly, for horse breeding. Both the thoroughbred and standardbred breeding industries depend on subsidies received from horse racing. If horse racing were to end in Massachusetts, those industries and the open space they use would be seriously jeopardized.

The Massachusetts Department of Food and Agriculture (DFA) reports that thoroughbred horse farms use 5,000 to 7,000 acres of open land in the Commonwealth. There are approximately 120 breeding farms in 80 cities and towns and they support 7,000 thoroughbred horses. DFA reports that 450 to 500 mares are bred annually in Massachusetts.

In May 1987, a team of Babson College graduate students released a report on the economic impact of the Massachusetts thoroughbred breeding industry. The report concluded that "the thoroughbred breeding industry is a growing, vital sector of the Massachusetts economy." It found that over the five year period of 1982-1986, the number of jobs in the breeding industry grew 100%, the total acreage used by the breeding farms increased 30%, the number of broodmares in Massachusetts more than doubled, and

total farm operating expenditures increased 113%. Moreover, from 1980 to 1986, Massachusetts-bred foal crop registrations increased five-fold.

DFA reports that an additional 5,000 to 7,000 acres of open land are used by standardbred horse farms. There are 125 standardbred farms in 70 cities and towns in the Commonwealth and they support 8,000 horses. In August 1987, DFA estimated that the economic impact of the standardbred industry in the Commonwealth was \$75 million annually.

In addition, approximately 10,000 acres of farmland are used to produce hay for the horse farms.

The Massachusetts horse breeding industry is directly dependent on subsidies received from horse racing. The Massachusetts Thoroughbred Breeding Program receives one half of one percent of all of the money wagered at Suffolk Downs. That money is used to pay bonus awards to owners and breeders of Massachusetts-bred horses that finish third or better in any race in the Commonwealth. It also pays bonus awards to the owners of the sires of such horses, and funds purses for races restricted to Massachusetts-bred horses.

These incentives have contributed greatly to the recent growth in the Massachusetts thoroughbred breeding industry. They have also helped farm owners to resist the temptation to turn their open space into developed land.

Unfortunately, the decline in handle at Suffolk Downs has reduced the payments received by the Thoroughbred Breeding Program. For example, while the program was able to contribute to

the purses in twenty-five "Massachusetts Stakes" races in fiscal year 1988, it will be able to contribute to only five such races in fiscal 1989. If Suffolk Downs were to close altogether, the Thoroughbred Breeding Program would be forced either to find another source of funding or to stop all payments to breeders and owners.

The Massachusetts Standardbred Breeding Program provided similar subsidies to breeders of standardbred horses. When Foxboro Raceway was in operation, the program was funded by one percent of the money wagered at the raceway. The closing of Foxboro in December 1986 has crippled the program. For the first year after the closing, the Commonwealth provided a \$175,000 budget appropriation. This, plus a \$155,000 carry-over from the previous year, kept the program viable for one year. However, the program received no state budget appropriation for fiscal 1989. Without financial support from either Foxboro or the state budget, the program has no money to distribute to the breeders.

DFA reports that, since the standardbred breeding program lost its funding, open space used for breeding farms has been sold and additional space has been put up for sale. Stallions that were registered in Massachusetts have gone to other states and mares that would have been bred to Massachusetts stallions have been bred to stallions in states with viable breeding programs.

Without the subsidies received from horse racing, or some other form of subsidy, it is unlikely that the breeding farms will survive. Massachusetts will likely lose 20,000 acres of open space.

VI. THE MASSACHUSETTS HORSE RACING MARKET

1. Competition

Horse racing in Massachusetts faces severe competition for both wagering and entertainment dollars. Although every horse track faces some competition, Suffolk Downs and Foxboro Raceway may be in the most competitive market in the country for entertainment, gambling and pari-mutuel dollars. The most damaging competition comes from Rockingham Park in New Hampshire and the many successful dog tracks in New England. A chart comparing the competition faced by Suffolk Downs and Foxboro with that faced by racetracks in other major horse racing jurisdictions is set forth in Appendix C.

Suffolk Downs competes with Rockingham Park in Salem, New Hampshire for the same patrons and the same horses. Direct, day-to-day, year-round competition between two major horse tracks in the same market is unique in the world of horse racing. Business has declined at Suffolk Downs in every year but one since Rockingham Park reopened in April of 1984.

Suffolk Downs and Foxboro Raceway also compete with Raynham Park and Wonderland Park, two of the most successful dog tracks in the nation. Wonderland is only one mile from Suffolk Downs and Raynham Park is only twelve miles from Foxboro Raceway. In addition, New Hampshire, Vermont, Connecticut and Rhode Island all license major dog tracks which attract Massachusetts residents. Only one other major horse racing jurisdiction, Florida, has direct competition between horse racing and dog racing.

Recently, Connecticut began construction of an off-track wagering teletheatre in Windsor Locks which will likely be patronized by Massachusetts residents. A similar teletheatre has been operating for two years in Albany.

Massachusetts horse racing also competes with other sports and with the state lottery. Massachusetts is the home of four highly successful professional sports teams, three of which reached the final playoffs in their respective fields as recently as 1986. The Massachusetts lottery is one of the most successful in the United States and has the highest daily per capita wager.

2. Geography and Demographics

Suffolk Downs is located in a large, highly populated urban area that is well suited for horse racing. In its 53 years of operation, the track has cultivated a faithful, sophisticated clientele of "big bet" patrons. However, this clientele is small and is increasingly leaving Suffolk Downs for Rockingham Park in New Hampshire.

Unfortunately, beyond its immediate neighborhood, the Suffolk Downs market has become severely limited. To the East is the Atlantic Ocean. Thirty miles to the North is Rockingham Park, a major thoroughbred racetrack which competes fifty-two weeks a year for patrons. The market to the South has been restricted for years by poor access: highway construction past, present and future has forced even the most ardent horseplayers to seek alternate forms of entertainment. To the West (and in general), access to Suffolk Downs is hindered by the need to cross the Mystic River Bridge or pass through the Callahan Tunnel. On the

other hand, Suffolk Downs is easily accessible by public transportation. Also, the Central Artery -- Third Harbor Tunnel project should greatly improve automobile access when it is completed in 1998.

The Foxboro marketplace is not as restricted. Foxboro Raceway is located on U.S. Route 1 adjacent to Interstate Route 95. The track is easily accessible from southeastern Massachusetts, Boston, Worcester, northern Connecticut, and Providence, Rhode Island. Many Rhode Island residents have remained patrons of horse racing, having enjoyed for years the operation of horse tracks in Lincoln and Narragansett which closed in the mid-1970s. However, Foxboro Raceway must still compete with the highly successful Raynham Dog Track which conducts 320 performances each year and is only 12 miles away. In addition, Lincoln Park, a highly successful dog track in Lincoln, Rhode Island, also competes directly with Foxboro Raceway.

III. MARKET EXPANSION

During the 1980's, the trend in thoroughbred and harness racing has been toward off-track wagering with simulcasting of live races to locations outside the host racetrack. Indeed, all of the top horse racing jurisdictions now allow some form of simulcasting.

Off-track wagering makes betting on horse racing more convenient for people who cannot or will not travel to the racetrack. It expands the track's market beyond its immediate vicinity.

Off-track wagering was first legalized in 1971 in New York where it is conducted without simulcasting. The regular simulcasting of races to outside markets began in 1976 with the opening of the New Haven teletheatre in Connecticut. Simulcasting has increased dramatically during the last ten years.

Simulcasting can be conducted in three ways:

1. Intratrack: Racetracks (host tracks) simulcast their races to another racetrack within the same jurisdiction. The receiving racetrack is usually sufficiently distant from the host racetrack so as not to interfere significantly with attendance at the host racetrack. The receiving track pays the host racetrack for showing its races.

Presently, intratrack wagering is used extensively in major horse racing jurisdictions such as New York, New Jersey, Maryland, Pennsylvania, and California.

2. Intertrack: Racetracks simulcast their races to locations in other jurisdictions, especially other racetracks. Intertrack simulcasting can be done on a regular basis, with the host racetrack simulcasting one or more races daily to the receiving racetrack, or it can be done intermittently, with the host racetrack simulcasting a single race of national interest to receiving racetracks, e.g., the Kentucky Derby.

Presently, New York, New Jersey, Florida, Kentucky, California, New Hampshire and most other horse racing jurisdictions employ intertrack simulcasting.

3. Teletheatres: Racetracks simulcast their races to facilities other than racetracks that are located some distance from the

track. A teletheatre is typically a theatre or a restaurant-type setting where races are shown live on large screens.

Presently, New York, Connecticut, Illinois, Louisiana and Nebraska have teletheatres operating with great success. Part of every dollar wagered at a teletheatre is generally paid to the host racetrack and to the purse account at the host racetrack.

Off-Track Betting (OTB): Another way to expand a track's marketplace is through off-track betting without simulcasting. Typically, this form of off-track wagering is conducted in small parlors and street-corner facilities which do not provide the services and comfort found at teletheatres and at racetracks. Although extremely common and popular in Great Britain, in the United States off-track betting without simulcasting is only permitted in New York and Connecticut.

Simulcasting in Massachusetts: Today, Massachusetts permits wagering on one simulcast race per day. Such a race is simulcast from another jurisdiction into Massachusetts racetracks. There are no teletheatres and no off-track betting in the Commonwealth. Races run in Massachusetts are not simulcast to other jurisdictions because there is no market for them.

Virtually every witness who testified before the Task Force advocated some form of off-track wagering. The revenues from that wagering could be used to benefit racing and distributed to horse owners, breeders, and racetrack operators for the purpose of improving facilities. However, the witnesses were not specific as to the extent of off-track wagering that would be necessary to save Massachusetts racing. Also, the Task Force did not review the

literature regarding the societal impact of increased gambling and did not hear testimony on that topic.

VIII. THE ISSUE OF OWNERSHIP

1. Private Ownership

Historically, racetracks in the United States have been privately owned and heavily regulated. In Massachusetts, Suffolk Downs has been in private hands for 53 consecutive years and Foxboro for 40 consecutive years.

There are very few exceptions to the general rule of private ownership. The most prominent exceptions are the Meadowlands in New Jersey (operated by public authority) and the tracks (Belmont, Aqueduct and Saratoga) operated by the New York Racing Association (NYRA), a unique nonprofit association. The NYRA was created in 1955 with funds provided by several wealthy families interested in racing including the Phipps and the Vanderbilts. This privately-funded, nonprofit association has not been duplicated anywhere else in the country.

Private ownership of racetracks allows states to regulate the industry fairly and aggressively. Strict regulation is universally considered a key ingredient for an honest and successful racing industry. Under ideal circumstances, the licensing authority has the opportunity to select the most qualified, capable and interested applicant from a number of potential licensees. Private ownership keeps the state away from the operations and management of racetracks, and permits owners to operate their facilities along traditional lines of private management: strong management, cost

concern for patrons and reinvestment in the business. Private owners are not constrained by legislative appropriations or capital construction regulations, or by rules regarding the hiring and firing of public employees.

Private ownership also carries a number of disadvantages, some of which are obvious today in Massachusetts. When a racetrack is privately owned, the licensing authority has few options if the track is poorly managed, or the quality of racing substandard, or the facility not properly maintained. Typically, the licensing authority can only refuse to renew the license or revoke the license in the course of its term. However, since there is only a single harness track and a single thoroughbred track in Massachusetts, denying an application or revoking a license effectively terminates racing, as is clear from the Fowlers experience.

Chapter 680 of the Acts of 1987 gave the State Racing Commission the power to issue a license with conditions and to fine the licensee if those conditions are not met. This approach gives the Racing Commission more flexibility. However, the Commission's fining authority is limited to violations of license conditions regarding services, renovations, and improvements, and failure to conduct performances. The Commission has no ability to fine for violations of the racing rules and regulations.

Further, if the owner of a racetrack does not operate the track himself, but rather leases it, the owner has considerable control over who becomes a licensee. The Racing Commission cannot issue a license to an applicant unless the track's owner is willing to

lease the facility to that applicant.

Moreover, private owners may decide to sell or develop their property for purposes other than racing. The recent, substantial increase in property values in the Commonwealth has made this option particularly attractive for Massachusetts track owners.

2. The Massachusetts Horse Racing Authority

Chapter 680 of the Acts of 1987 established the Massachusetts Horse Racing Authority (See Appendix "B"). The Authority membership and the Advisory Board Membership have been appointed; however, no meetings have taken place.

Section 22 of Chapter 680 requires that by no later than January 15, 1989, the Authority must prepare and submit to the Governor, President of the Senate, Speaker of the House and the Joint Committee on Government Regulations a proposal for the project of purchasing, developing and operating one or more thoroughbred or harness tracks. However, there is virtually no explicit policy control over the Authority's actions: the Governor does not directly appoint even a majority of the members and the Authority can act without legislative approval.

The Legislature did not appropriate, and the Governor did not seek, any funds for the operation of the Authority in fiscal year 1988 and no such appropriations have been proposed for fiscal year 1989. Without resources, the Authority has not been able to hire an executive director. The Authority has no office space, no equipment and no staff.

A representative of the Inspector General's Office testified before the Task Force and recommended against funding the Authority, because there has been no financial planning for the creation of the new bureaucracy and because there are no existing revenues to support it. Thus, he testified, the Authority would need to be subsidized 100% by taxpayers, at least initially. The Inspector General cautioned that, once begun, the subsidy would be nearly impossible to stop. He cautioned that the Authority "could prove to be a bottomless pit."

The Inspector General has frequently recommended against creating public authorities because they require an administrative bureaucracy that duplicates existing resources and because they are not subject to the ordinary controls that govern other state agencies. Recently, the Senate Ways and Means Committee recommended that, before creating any authority, the question should be asked whether there are private enterprises available and willing to perform the functions of the proposed authority.

The advantage to an authority would be its ability to ensure that racing continues at the existing facilities by purchasing or taking those facilities. However, a representative of the Attorney General advised the Task Force that the exercise of an authority's right to "take" is subject to its ability to tender the fair market price of the property to be taken. Furthermore, the owner of the property has three years within which to challenge the fair market value tendered and to seek a higher price. The Authority has no money available to tender for the acquisition of any existing track; and nowhere in Chapter 601 does the Commission place 100%

full faith and credit before the Authority. Thus, it is unlikely that the Authority will ever be in a position to use bonds to finance any purchase, construction or renovation of any horse track.

IX. THE FUTURE OF MASSACHUSETTS HORSE RACING

Despite the current, bleak state of Massachusetts horse racing, the future holds the promise of substantial improvement.

The operators of very successful tracks in other parts of the country have expressed interest in becoming involved in Massachusetts racing. The Task Force received testimony from Frank DeFrancis, the owner of Pimlico and Laurel racetracks in Maryland, and from Paul Silvergleid, President of North American Development for Ladbrooke Racing Corp. Ladbrooke owns Detroit Race Course and operates over 2,500 betting parlors in Europe. Bonnen expressed interest in operating a racetrack in Massachusetts if the market is expanded through some form of off-track wagering. Mr. Silvergleid indicated that Ladbrooke would be interested in building a new racing facility to conduct both thoroughbred and harness racing.

Also, although Edward Lernouk has repeatedly indicated his intent to terminate racing at Suffolk Downs and to develop the property for other purposes, government officials have expressed a willingness to consider proposals that would preserve Suffolk Downs as a racetrack.

The Director of the Governor's Office of Economic Development, and the state secretaries of Environmental Affairs and

Transportation, have consistently stated their opposition to any large-scale private development at Suffolk for at least the next decade -- the period during which the Central Artery, Third Harbor Tunnel, and Boston Harbor cleanup projects will be under construction. On the other hand, these officials have indicated their willingness to consider the lease of a portion of the Suffolk Downs property by state transportation agencies for parking and/or construction-staging purposes, but only as part of a plan to maintain racing at a new or renovated Suffolk Downs race track. State development officials suggest that the economic value of such leases, along with development rights for the period following completion of the Artery-Tunnel and Harbor Cleanup projects, could create a more attractive climate for private ownership to reinvest in racing at Suffolk. A copy of a memorandum addressing this subject from Alden Raine, Director of the Governor's Office of Economic Development, is attached as Appendix D.

CONCLUSIONS

1. Under present conditions, it is unlikely that horse racing will continue in Massachusetts beyond 1989. Foxboro, the only commercial harness racetrack in the Commonwealth, has been closed for nearly two years. Suffolk Downs, the only commercial thoroughbred racetrack, has been suffering dramatic declines in both handle and attendance. Extensive competition and a limited market have combined to make Massachusetts horse racing unsuccessful. Announcements of the imminent closing of Suffolk Downs have contributed to that track's decline.

2. If horse racing ends in Massachusetts, the Commonwealth will lose jobs, revenue and a sport that is greatly enjoyed by thousands of citizens. Moreover, thousands of acres of open space that are now used for horse breeding will be jeopardized.

3. There is no future for Massachusetts horse racing without either 1) an expanded market including some form of off-track wagering, or 2) outside subsidies. Also, the tax structure put in place by Chapter 680 of the Acts of 1987 must be preserved for racing to continue.

4. The Task Force did not study the societal impact of off-track wagering nor the extent of off-track wagering that would be necessary to make Massachusetts horse racing financially viable.

5. If legislation allowing off-track wagering is enacted, the State Racing Commission should solicit applications for racing dates from all interested parties, including those who have operated successful facilities in other states. The Commission should award horse racing dates only to an entity or entities that will assure that Massachusetts horse racing will be of high quality, well-managed, and honest. Also, if legislation allowing off-track wagering is enacted, revenues from that wagering should be used to benefit racing. Revenues from off-track wagering should be distributed to the purse account, the breeding programs, and to racetrack operators to be used to improve facilities for the benefit of the public and participants.

6. The Commonwealth should not subsidize horse racing by direct appropriation or by placing its full faith and credit behind the Massachusetts Horse Racing Authority.
7. The legislation that created the Massachusetts Horse Racing Authority should be repealed. First, there are viable private sector alternatives to the authority. Second, the authority would likely require very substantial taxpayer subsidies. There has been no financial planning for its creation and there is no revenue stream to support it. Third, simply changing from private ownership to public ownership would not solve racing's underlying economic problems.

APPENDIX A

Witnesses and Testified before the Task Force

Frank DeFrancis
Owner of Pimlico and Laurel Thoroughbred Race Tracks, Maryland

Robert M. O'Malley, Vice President
New Suffolk Downs Corporation

Jeffrey Brudnick
Standardbred Breeder

Andrew Lyons, President
Standardbred Breeders Association of New England

Dr. Albert Anderson
Veterinarian

Robert Hawking
Assistant Editor
New England Thoroughbred

Stephen Cotton
First Assistant Inspector General

James Hosker, Executive Director
Massachusetts State Lottery

Mark Bourbeau
Assistant Attorney General
Eminent Domain Division

Paul Silvergleid
President for North American Development
Ladbroke Racing Corporation

Alden Raine, Director
Governor's Office of Economic Development

Mark Regan, Executive Director
Massachusetts Thoroughbred Breeders Association

The Honorable Thomas Norton
State Senator

Gerard McKeon
President
New York Racing Association

APPENDIX B

I. Chapter 494, Acts of 1978:

- Created the capital improvements trust funds for thoroughbred and harness racetracks funded to be through the breakage formerly divided between the track and the state;
- Imposed an annual license fee upon racetracks;
- Increased the permitted number of horse racing performances during a calendar year;
- Reduced the state's share of the takeout from 5% to 3% of the daily handle for thoroughbred racing; and
- Reduced the state's share of the takeout to 3% of the daily handle for harness racing.

II. Chapter 580, Acts of 1988: Effective December 13, 1988

through December 31, 1990, chapter 580 provides as follows:

A. Thoroughbred Running Horse:

1. Thoroughbred racetracks to take out 1% of the total amount wagered.
2. Thoroughbred tracks to pay the total breakage into the Running Horse Capital Improvements Trust Fund.
3. Thoroughbred tracks to pay 1.4% of the total amount wagered into the Capital Improvement Trust Fund.
4. Thoroughbred tracks to pay 1.4% of the total amount wagered

into the Funding Horse Protection Trust Fund.

5. During live performances, thoroughbred tracks allowed to simulcast more than the authorized five events but not more than the number of events permitted under Federal law.
6. The state's share of the takeout to be reduced from 1% to 3%.
7. The track's share to remain at 7% but statutory purses to be increased to 6 1/2%.
8. Thoroughbred tracks to use not less than 7 1/2% of the total amount withheld for purses for the payment of purses on stakes races.
9. Thoroughbred tracks to benefit from a so-called incentive tax cap, which permits a thoroughbred track which has exceeded its previous year's handle to retain 9% of the handle, pay 7% of the handle to purses and pay 3% of the handle to the Commonwealth.
10. The amount allocated to the thoroughbred breeders fund to be increased from 1/4% to 1/2%.

3. Standardbred (Harness):

1. Harness tracks to take out 19% on straight wagering (Win, Place, Show).
2. Harness tracks to take out 20% on all exotic wagering including Daily Doubles, Perfectos, Trifectas, Superfectas, TwinTrifectas, etc.
3. Harness tracks to pay the total breakage into the Harness Horse Capital Improvements Trust Fund.
4. Harness tracks to pay 1% of the total exotic wagers into

the Harness Horse Capital Improvements Trust Fund.

5. Harness tracks to pay 18% of the total exotic wagers into the Harness Horse Promotional Trust Fund.
6. During live performances, harness tracks allowed to simulcast events to the full extent allowed by Federal Law.
7. The state's share of the takeout on all forms of wagering to remain at 3%.
8. The track's share of the takeout to remain at 6% on all forms of wagering but statutory purses to be increased to 10% on all exotic wagers.
9. Harness tracks to benefit from a so-called incentive tax cap, which permits a harness track that has exceeded its previous year's handle to retain a larger share of the handle from exotic wagers.
10. The amount allocated to the standardbred breeders fund to be increased from 1/3% to 1%.
11. Harness tracks in Norfolk County authorized to conduct an additional eighty days of racing for a total of 300 days.

III. Chapter 680, Acts of 1987: Effective January 6, 1988 through December 31, 1989, this Act provides as follows:

1. Permits the Racing Commission to issue a two year license (1988-1989) to both running horse and harness racetracks.
2. Grants the Commission authority to impose certain conditions upon running horse and harness licenses regarding full performance during the term of license, and regarding specific operations and improvements which must take place during the term of the license.

3. Gives the Commission the power to fine a harness horse licensee for violation of any condition imposed by the Commission.
4. Empowers the Commission to permit a running horse or harness horse licensee to conduct ten full simulcast performances in the event live racing is cancelled as a result of adverse weather conditions or other emergency, such simulcast performances to count as part of the 250 performances awarded under the license.
5. Changes the distribution of the takeout as follows:

Running Horse

Takeout	19%
State	3/4%
Purses	5 1/2%
Promotional Fund	1/4%
Track	9 1/2%

Breakage to go into Capital Improvements Trust Fund

Harness Horse

Takeout (Win, Place, Show)	19%
State	1 1/4%
Purses	2%
Track	9 3/4%

Breakage to go into Capital Improvements Trust Fund

Takeout (Exotic)	20%
State	1 1/4%
Purses	10%
Capital Improvements	1%

Protections	18
Track	9-3-48
Breakage to go into Capital Improvements Trust Fund	
6. Provides additional authority to the Commission to prescribe specific capital improvements.	
7. Eliminates the requirement that harness racing in Norfolk County be conducted over a 45 week period.	
8. Permits the Commission to accept applications for a harness racing license in Norfolk County at any time during the year when no license has been awarded.	
9. Creates a Massachusetts horse racing authority.	

Competition in Major Horse Racing Jurisdictions

<u>INSPECTION</u>	<u>COMPETITION</u>
1. CALIFORNIA	1. Professional sports competition 2. No dog racing 3. No horse track competition 4. State Lottery
2. NEW YORK	1. Professional sports competition 2. No dog racing 3. Minimal horse track competition 4. State Lottery
3. NEW JERSEY	1. Professional sports competition 2. No dog racing 3. Minimal horse track competition 4. State Lottery 5. Casino gambling
4. FLORIDA	1. Minimal professional sports competition 2. Extreme dog racing competition 3. No horse track competition 4. State lottery 5. Jai Alai
5. MARYLAND	1. Professional sports competition 2. No dog racing 3. Some horse track competition 4. State Lottery
6. ILLINOIS	1. Professional sports competition 2. No dog racing 3. Minimal horse track competition 4. State Lottery
7. PENNSYLVANIA	1. Professional sports competition 2. No dog racing 3. Minimal horse track competition 4. State Lottery
8. KENTUCKY	1. No professional sports competition 2. No dog racing 3. Minimal horse track competition 4. No State Lottery
9. OHIO	1. Professional sports competition 2. No dog racing 3. Minimal horse track competition

10. LOUISIANA

1. State Lottery
2. Minimal professional sports competition
3. No dog racing
4. No horse track competition
5. No State Lottery

11. ARIZONA

1. Minimal professional sports competition
2. Dog racing
3. No horse track competition
4. State Lottery

12. ARKANSAS

1. No professional sports competition
2. Dog racing
3. No horse track competition
4. No State Lottery

13. MINNESOTA

1. Professional sports competition
2. No dog racing
3. No horse track competition
4. No State Lottery

14. NEW HAMPSHIRE

1. Professional sports competition (from Massachusetts)
2. Extreme dog racing competition
3. Extreme horse track competition
4. State Lottery

15. MASSACHUSETTS

1. Extreme professional sports competition
2. Extreme dog racing competition
3. Extreme horse track competition
4. State Lottery

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE DEPARTMENT
GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT
STATE HOUSE • ROOM 109 • BOSTON 02133

MICHAEL S. DUKAKIS
GOVERNOR
ALDEN S. RAYNE
DIRECTOR

AREA CODE (617)
727-1130

MEMORANDUM

TO: Paula S. Said, Secretary of Consumer Affairs and
Business Regulation *MS/*

FROM: Alden S. Rayne, Director *ASR/*

RE: Buffalo Downs / Advisory Committee on Horse Racing

DATE: September 15, 1988

I am writing to summarize the Administration's position on the potential redevelopment of Buffalo Downs. In brief, we not only oppose major private development at Buffalo Downs for at least the next decade, but we would entertain financial incentives to reinvest in the race track if the Legislature and Governor wish to keep it in place. This慎重的 negotiation by views as well as those of Secretaries Salvucci and Rayne, and is consistent with my testimony before the Advisory Committee on Horse Racing this morning.

Buffalo Downs as a Race Track

While we definitely do not rule out a new track location, we continue to see Buffalo Downs as a good place for a strengthened track. It is centrally located in the region's major metropolitan area, and is easily accessible by public transportation. While automobile access to the track will remain difficult during the next decade of highway construction, the promise of that construction—the MBTA Harbor Tunnel and a much better Central Arterial highway—should be the solution.

Buffalo Downs also has the advantage of being an existing facility with an operating community acceptance of its presence. Building a new track elsewhere, whether private or public, or under private auspices, will entail a long, complicated, and not necessarily successful public process.

we share the widespread view that the existing Buffalo facilities are unacceptable under existing economic conditions. However, a wholesale renovation could be undertaken. Alternatively, it might be more cost-effective to build a new track at Buffalo while the old one lives out its final days. New or renovated staples could serve both the old and new tracks.

Alternative Development at the Buffalo Site

The Administration has consistently made clear its opposition to any significant commercial or residential development on the Buffalo Downs site. This remains our position.

The reasons are twofold. First, the lure of large-scale development has contributed to the present owner's plan to discontinue racing and his consequent failure to reinvest in the track facilities. Second, racing considerations aside, the decade of highway construction on the Anterv-Tunxis system and of wastewater treatment construction at nearby Deep River is the wrong time to entertain any major new track regeneration at Buffalo Downs.

The City of Boston shares our opposition to major development at Buffalo Downs, at least over the next decade. I should add that some of the development components proposed by Mr. LeRoux—the skeletal arena, convention center, and associated hotel, for example—would in our judgment conflict directly with major new facilities which we and the City are sponsoring in the downtown, where they belong.

Development at Buffalo Downs will require important state permitting decisions (access, wetlands, air quality, and other aspects). All of these will be covered in an Environmental Impact Review under the Massachusetts Environmental Policy Act (MEPA), in which our concerns and those of the public will be thoroughly evaluated. During the period of the project's construction, it is very possible that the impacts and air quality impacts cannot be adequately mitigated.

After a decade, when the Anterv-Tunxis and Harbor cleanup projects are done, the state and City must take a more objective view of development at Buffalo. We should examine the whether the prospect of a future development might well be in the private owner's public and private interest, and acceptable to the track during the IPR.

TRANSPORTATION USE AT BOSTON

There has been considerable discussion in the Committee on the subject of the BART, State owned, state transportation agencies. The MTA could use a major park-and-ride site on the Blue Line. MassPort badly needs additional parking for Logan employees, passengers, or staff. And the Department of Public Works will need a staging area for constructing the airport end of the new tunnel.

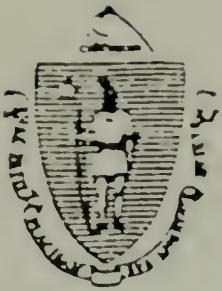
None of these activities has to take place at Suffolk Downs, but one or more of them could work there nicely and help alleviate congestion at Logan and on Route 1A. Moreover, the state agencies involved would either make lease payments to the Suffolk ownership or subsequently purchase the portion of the site they wish to use.

It is the clear position of Secretary Salviucci that state transportation agencies will entertain an economic relationship with Suffolk Downs only in conjunction with a commitment to maintain racing at the site and to forego additional racing development until the "base projects" are completed.

BART'S EXPECTATIONS

The present validity of the Suffolk connection, and the adherence of its management to the conditions set forth under the 1987 racing bill, are issues for your office and the Racing Commission. We reiterate, however, that the Labour Group continues to express its intent to discontinue racing when the current legislation expires.

If the Governor and Legislature were to renew racing at Suffolk, the incentives outlined beneath the state transportation lease and a possible future development might help create the necessary economic conditions. If a sufficiently supportive economic climate can be created, it may well be possible to secure a private transportation operator committed to racing without using the eminent domain powers of the Racing Authority.



THE COMMONWEALTH OF MASSACHUSETTS

OFFICE OF THE INSPECTOR GENERAL

ONE ASHBURTON PLACE

BOSTON 02108

JOSEPH R. BARRESI
INSPECTOR GENERAL

TELEPHONE
(617) 727-9140

SECRETARY'S TASK FORCE ON THE FUTURE OF
THE HORSE RACING INDUSTRY

Statement of Stephen E. Cotton
First Assistant Inspector General

May 23, 1988

I am appearing here today on behalf of the Inspector General, at the request of Secretary Gold, to outline to this Task Force the Inspector General's views regarding the establishment of new State authorities.

One responsibility of the Inspector General is to provide independent recommendations to the Legislature and Executive Department officials regarding the prevention of fraud, waste, and abuse in government expenditures.

The Inspector General has frequently recommended against the creation of new public authorities, for two very good reasons. They require an administrative bureaucracy which will duplicate resources already available within State government. And they are not subject to many of the controls which govern regular State agencies, controls which were enacted by the Legislature to ensure that public funds are spent prudently.

To put it bluntly, any new authority will tend to be less accountable than a regular State agency and more expensive than any other approach to solving a problem. It must hire its own staff (not subject to State personnel rules), pay salaries and fringe benefits (not subject to State salary caps), and buy furniture, equipment, and consultant services (not subject to State procurement regulations). At the outset -- and perhaps forever, unless the authority has a large enough revenue stream to support itself -- taxpayers will foot all or many of the bills.

In 1985, the Senate Ways and Means Committee called authorities "a fourth branch of government which operates with little understanding, oversight, or control by elected officials and the general public." [Fiscal Year 1986 Budget Recommendations, June, 1985].

The Committee called for at least a temporary moratorium on the creation of new authorities. The Committee noted:

Far too often the subject matter to be addressed by the proposed authority, whether it be the assumption of water delivery and sewage disposal services or the financing of private housing development, has become the focal point of the legislative debate, and the more basic question of whether or not the creation of an authority is the best manner in which to deal with that subject matter has received little direct attention. . . .

If questions relative to the wisdom of establishing a public authority have arisen at all during legislative debate, more often than not those questions have focused on the proposed powers and organization of the authority, such as whether or not to grant it the power of eminent domain or how its governing board should be composed. Although those questions certainly involve important matters which must be considered prior to the creation of an authority, they are subsidiary to the threshold

question of whether or not the authority should be created at all. (Emphasis in original).

In passing, I would note that one of the questions which Senate Ways and Means said should be asked at the threshold -- in deciding whether to create an authority -- is the following: "Are there private enterprises available and willing to perform those functions [which the new authority would undertake]?" Obviously, if the functions can or should be performed by the private sector, there is reason to question whether taxpayers should take on the expense or risk.

The Senate Ways and Means report and the views of the Inspector General are very much in harmony. Before the Senate Ways and Means Committee's report and since, the Inspector General has frequently questioned proposals to create new authorities.

One criterion the IG has consistently applied is this: Can and will the new authority support itself? If there is not clear evidence, based on hard-headed analysis of projected revenues and expenses, that an authority can support itself without the need for taxpayer bailouts, then in the IG's view there is very little basis for setting up the expensive superstructure of an authority.

Authority proposals are commonplace. During the 1987 legislative session, the Inspector General recommended adverse reports on bills calling for a Commonwealth Zoological Corporation, a Massachusetts Export Development and Finance Authority, a Massachusetts Medical Injury Compensation

Corporation, a Massachusetts Small Business Equity Corporation, and a Massachusetts Waste Management authority. Before that he opposed a Court Facilities Authority, a Massachusetts Energy Conservation Authority, and MassBank. Fortunately, none of these authorities was created.

The only State authority to be created, as far as I am aware, since 1984 has been the Massachusetts Water Resources Authority. The basis for establishing that authority was the enormity -- in terms of both cost and duration -- of the capital projects; MWRA's projects require capital planning and a bonding capacity that could not dependably be tied to biennial state capital budgeting. Moreover, the MWRA has a revenue base in water and sewer fees.

There is, of course, one other authority measure that has passed the Legislature: Chapter 680 of the Acts of 1987. I suppose one could say that it created the Massachusetts Horse Racing Authority, but that creation has a kind of metaphysical aspect: without a dime to its name, does the Authority really exist?

When the Authority legislation emerged from its own ashes in the final hours of the 1987 session, Rep. Galvin, addressing the House and urging acceptance of the conference committee report, said the bill would create the "shell of an authority" -- "a standby entity."

Whether one regards the Horse Racing Authority as an empty promise or an empty threat, the operative word is empty. The

question of whether to give any life -- that is, any money -- to it is one which has yet to be faced.

Consistent with his longstanding views, the Inspector General would recommend against funding the Authority. As far as we know, there has been no financial planning for the creation of a new bureaucracy -- no staffing plan, no operating budget, no capital budget, no revenue projections.

Since this new authority would have no revenues at the start, its operations must be subsidized 100% by the taxpayer. And a new bureaucracy, once begun, will have one predominant mission: self-preservation. Once the subsidies are turned on, turning them off will be next to impossible. And this authority could prove to be a bottomless pit.

